



MEMORANDUM

TO: Mark Springer, Chair, and Members of the Marijuana Control Board DATE: October 16, 2018

FROM: Jed Smith, Local Govt Specialist, and Sarah Oates, Program Coordinator RE: Regulations Project – Testing Working Group Recommendations, Set 2

Testing Working Group Recommendations, Set 2 Summary

Members of the Testing Working Group initially developed the language regarding harvest grading, for the purposes of testing bud and flower, leaf and trim, and kief, primarily as a means to improve accuracy in potency test results that are reported to the consumer. The original draft changes for these sections were posted for public comment, but AMCO staff requested that sections regarding grading of harvest batches be sent back to the Testing Working Group for realignment with a Department of Revenue project that similarly defined grades of the plant.

The following draft has been reviewed and forwarded by the Testing Working Group. The industry representatives in the group expressed interest in aligning definitions across departments to prevent confusion of licensees. Staff also met with the AMCO and Department of Revenue enforcement teams, who did express reservations about the regulatory language in both departments' projects and enforceability. However, no new language was proposed, and the Department of Revenue's language (Attachment A) has been adopted will become effective on January 1, 2019.

The changes to the current draft accomplish the following:

- 3 AAC 306.435 clarifies how seeds and cuttings are added to the inventory tracking system.
- 3 AAC 306.445 includes the language crafted to correlate with the Department of Revenue.
- 3 AAC 306.990 further defines the referenced harvest grades and quantity.

Potential Actions

- Put out for public comment as written
- Amend and put out for public comment
- Send back to the Testing Working Group for revisions

(Words in **boldface and underlined** indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted.)

3 AAC 306.435 is amended to read:

3 AAC 306.435. Marijuana inventory tracking system (a) A marijuana cultivation facility shall use a marijuana inventory tracking system in compliance with 3 AAC 306.730 to ensure all marijuana propagated, grown, or cultivated on the marijuana cultivation facility’s premises is identified and tracked from the time the marijuana is propagated through transfer to another licensed marijuana establishment or destruction. The marijuana cultivation facility shall assign a tracking number to each plant over eight inches tall. When harvested, **each** [BUD AND FLOWER, CLONE OR CUTTINGS, OR LEAVES AND TRIM MAY BE COMBINED IN HARVEST BATCHES OF DISTINCT STRAINS, NOT EXCEEDING FIVE POUNDS. EACH] harvest batch must be given an inventory tracking number. Clones, [OR]cuttings, **or seeds shall be identified by an inventory tracking number; each inventory tracking number shall be assigned to 50 or fewer plants or seeds.** [MUST BE LIMITED TO 50 OR FEWER PLANTS AND IDENTIFIED BY A BATCH TRACKING NUMBER].

(b) A marijuana cultivation facility shall record each sale and transport of **any plants or seeds and** each batch in its marijuana inventory tracking system and shall generate a valid transport manifest to accompany **any plants and seeds and** each transported batch. (Eff. 2/21/2016, Register 217; am __/__/____, Register ____).

Authority: AS 17.38.010 AS 17.38.150 AS 17.38.200
AS 17.38.070 AS 17.38.190 AS 17.38.900
AS 17.38.121

3 AAC 306.445 is repealed and readopted to read:

3 AAC 306.445. Standards for cultivation and preparation. (a) A marijuana cultivation facility shall use registered scales in compliance with AS 45.75.080 and 3 AAC 306.745.

(b) Harvested marijuana will be segregated into batches using the following grades:

(1) from marijuana plants that are uniform in strain, cultivated in one place and under the same conditions, using the same medium and agricultural chemicals including pesticides and fungicides, and harvested in a time period not to exceed 72 consecutive hours

- (A) mature bud;
- (B) immature bud; and
- (C) remainder of the plant; and

(2) kief, which may be combined from multiple strains and harvests. (Eff.

2/21/2016, Register 217; am ___/___/___, Register___).

Authority: AS 17.38.010 AS 17.38.150 AS 17.38.200
AS 17.38.070 AS 17.38.190 AS 17.38.900
AS 17.38.121

3 AAC 306.990 (b) (3) is amended to read:

(3) "batch" or "harvest batch" means a specifically identified quantity of **bud and flower**, plant trim, leaf, and other usable product from marijuana plants, **that has been segregated into a specific grade as required by 3 AAC 306.445(b), and does not exceed 10 pounds** [THAT ARE UNIFORM IN STRAIN, CULTIVATED IN ONE PLACE AND UNDER THE SAME CONDITIONS, USING THE SAME MEDIUM AND AGRICULTURAL CHEMICALS INCLUDING PESTICIDES AND FUNGICIDES, AND HARVESTED AT THE SAME TIME]; (Eff. 2/21/2016, Register 217; am___/___/___, Register___).

Authority: AS 17.38.010 AS 17.38.150 AS 17.38.200
AS 17.38.070 AS 17.38.190 AS 17.38.900
AS 17.38.121

3 AAC 306.990 (b) is amended by adding new paragraphs to read:

(40) "mature bud" means a mature flower formed on a flowering marijuana plant, and consists of calyx, pistils, resin, and trichomes that are generally swelled with resin, dense to sight and touch, and visibly covered in trichomes;

(41) "immature bud" means an immature flower formed on a flowering marijuana plant, and consists of calyx, pistils, resin and trichomes and that generally appear loose, wispy, or leafy, and are not dense to sight or touch.

(42) "remainder of the plant" means any part of or derived from a flowering marijuana plant that does not meet the definition of mature bud, immature bud, clones, cuttings, seeds, or kief.

(43) "total THC" means the sum of THC and (0.877) * (THCA)

(44) “total CBD” means the sum of CBD and $(0.877) * (CBDA)$

(Eff. 2/21/2016, Register 217; am_ /_ /____, Register____).

Authority: AS 17.38.010 AS 17.38.150 AS 17.38.200
AS 17.38.070 AS 17.38.190 AS 17.38.900
AS 17.38.121

Register 228, January 2019

REVENUE

"THE REGULATIONS REPRODUCED HERE HAVE BEEN PROVIDED BY THE DEPARTMENT OF REVENUE AS A PUBLIC COURTESY. WHILE EVERY EFFORT HAS BEEN MADE TO ASSURE THE ACCURACY OF THE REPRODUCED VERSION, THE DEPARTMENT OF REVENUE CANNOT GUARANTEE ITS ABSOLUTE ACCURACY. PAPER COPIES OF THE REGULATIONS AS ORIGINALLY FILED BY THE LIEUTENANT GOVERNOR ARE AVAILABLE FROM THE DEPARTMENT OF REVENUE.

THE REGULATIONS HAVE AN EFFECTIVE DATE OF JANUARY 1, 2019 ARE IN REGISTER 228 AND WILL APPEAR IN OFFICIAL PUBLISHED FORM IN THE JANUARY 2019 SUPPLEMENT TO THE ALASKA ADMINISTRATIVE CODE."

Courtesy copy of adopted regulations

15 AAC 61.100(a) is amended to read:

(a) All non-exempt marijuana sold or transferred from a marijuana cultivation facility will be taxed as follows:

(1) **mature bud will be taxed at \$50 an ounce** [ANY PART OF THE BUD AND FLOWER WILL BE TAXED AT \$50 AN OUNCE];

(2) **immature bud will be taxed at \$25 an ounce;** [THE REMAINDER OF THE PLANT, NOT INCLUDED IN (1) OF THIS SUBSECTION, WILL BE TAXED AT \$15 AN OUNCE.]

(3) **abnormal bud will be taxed at \$25 an ounce;**

(4) **the remainder of the plant will be taxed at \$15 an ounce; and**

(5) **clones will be taxed at \$1 per plant.**

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15 AAC 61.100 is amended by adding a new subsection to read:

(d) Marijuana offered for sale in a manner that contains a combination of plant parts will be taxed at the tax rate applicable to the plant part subject to the highest tax rate under this section. (Eff. 5/28/2016, Register 218; am 1/1/2019, Register 228)

Authority: AS 43.05.080 AS 43.61.010 AS 43.61.020

The introductory language to 15 AAC 61.990 is amended to read:

15 AAC 61.990. Definitions. In AS 43.61 and this chapter,

15 AAC 61.990(1) is repealed:

(1) repealed; 1/1/2019;

15 AAC 61.990 is amended by adding new paragraphs to read:

(11) “abnormal bud” means a flower formed on a flowering marijuana plant, and consists of calyx, pistils, resin, and trichomes, that also

(A) failed a microbial testing required by 3 AAC 306.645(b); or

(B) contains observable seeds;

(12) “clones” has the meaning given in 3 AAC 306.990(b);

(13) “flowering” has the meaning given in 3 AAC 306.990(a);

(14) “immature bud” means an immature flower formed on a flowering marijuana plant, and consists of calyx, pistils, resin, and trichomes and that generally

(A) appear loose, wispy, or leafy; and

(B) are not dense to sight or touch;

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(15) "mature bud" means a mature flower formed on a flowering marijuana plant, and consists of calyx, pistils, resin, and trichomes that are generally

(A) swelled with resin;

(B) dense to sight and touch; and

(C) visibly covered in trichomes;

(16) "remainder of the plant" means any part of a flowering marijuana plant not included in (11), (14), or (15) of this section.

(Eff. 5/28/2016, Register 218; am 1/1/2019, Register 228)

Authority: AS 43.05.080 AS 43.61.020 AS 43.61.030
AS 43.61.010